

quotations omitted). To the extent the Defendants sought judgment on issues involving more than “a portion of a single claim in suit,” the Report explained why their arguments failed.

See generally id.

This does not leave the Defendants without a remedy, however. There will be ample avenues and mechanisms to resolve any truly “significant issues of law” “before this case [is] presented to a jury.” After the final settlement conference, the court can in the exercise of its discretion provide defense counsel with ample opportunities to address all necessary legal issues through a verity of mechanisms and procedures, including further conferences and the filing of motion(s) *in limine*, a Rule 50 motion and so forth.¹

The magistrate judge did his job at the Rule 56 stage, namely to explain why the Defendants have not established their entitlement to summary judgment regarding all portions of the Plaintiff’s surviving claims. Any remaining legal disputes appropriately were held in abeyance for resolution through subsequent proceedings and motions practice.

Accordingly, after a *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following Order is entered:

AND NOW, on this 8th day of March, 2007,

IT IS ORDERED that the Defendants’ Motion for Summary Judgment (**Document No. 40**) be, and the same hereby is, **GRANTED IN PART** and **DENIED IN PART**. The motion is granted as to plaintiff’s claims under the Equal Protection Clause at Count II, the Pennsylvania Wage Payment Collection Law embodied in Count VII and the National Origin claim at Count VIII, as more fully described in the magistrate judge’s Report. The motion is denied in all other

¹ The Defendants’ desire to suppress certain evidence regarding Mr. Capo’s numerous complaints and legal theories brings to mind the maxim, “be careful what you wish for.” As can be gauged by the magistrate judge’s reaction, it is entirely conceivable that the more the jury hears of the Plaintiff’s grievances, the better for the Defendants. *Cf., e.g.,* Report at 14 & n.8 (discussing “overly sensitive or litigious workers,” and acknowledging potential for them to “wield[the discrimination laws] as a sword” rather than “as a shield”).

aspect. The magistrate judge's report as augmented above is adopted as the opinion of the Court.



David Stewart Cercone
United States District Judge

cc: Honorable Francis X. Caiazza
United States Magistrate Judge

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